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Chapter 29 - STORMWATER MANAGEMENT AND DRAINAGE
ARTICLE VI. - LAND ALTERATION REGULATIONS

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Sec. 29-166. - Penalty.

Any person convicted of a violation of any of the provisions of this chapter shall be punished as provided in [section 1-9](#).

(Ord. No. 19,353, § 2, 7-19-05)

Sec. 29-167. - Findings.

The city has experienced development activity causing the displacement of large amounts of earth and tree cover. Significant problems resulting from such development include flooding, soil erosion and sedimentation, unstable slopes, and impaired quality of life. These problems are a concern because of their negative effects on the safety and general welfare of the community.

(Ord. No. 19,353, § 2, 7-19-05)

Sec. 29-168. - Purpose.

The purposes of this chapter are to:

- (1) Prohibit the indiscriminate clearing of property.
- (2) Prevent excessive grading, clearing, filling, cutting or similar activities.
- (3) Substantially reduce flooding, erosion and sediment damage within the city.
- (5) Safeguard the safety and welfare of citizens.
- (6) Establish reasonable standards and procedures for development which prevent potential flooding, erosion and sediment damage.
- (7) Prevent the pollution of streams, ponds and other watercourses by sediment.
- (8) Minimize the danger of flood loss and property loss due to unstable slopes.
- (9) Preserve natural vegetation which enhances the quality of life of the community.

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(10) To conceal hillside scars.

(11) To preserve the contours of the natural landscape and land forms.

(Ord. No. 19,353, § 2, 7-19-05)

Sec. 29-169. - General requirements.

Persons engaged in land alteration activities regulated by this chapter shall take measures to protect neighboring public and private properties from damage by such activities. The requirements of this chapter, however, are not intended to prevent the reasonable use of properties as permitted by [chapter 36](#) of this Code.

(Ord. No. 19,353, § 2, 7-19-05)

Sec. 29-170. - Violation, enforcement and penalties.

- (a) Violations of any provisions of this chapter shall be punishable as provided in [section 1-9](#) of this Code, except that the continuing violation provisions of subsection [1-9\(c\)](#) shall not apply unless:
 - (1) An approved plan for correction of the violation(s) has not been implemented by the responsible party within the time specified in the plan, or
 - (2) The responsible party fails to submit a required plan within the time specified.
- (b) The responsible party shall be liable for all fines levied and remedial action required under this chapter. Each tree removed or improperly preserved or any other activity proscribed by this chapter shall be a separate violation. Each violation shall be considered a separate offense.
- (c) Any person who engages in land alteration activities regulated by this chapter without obtaining a grading permit shall be required to restore the land to the maximum extent practicable to its original condition in accordance with [section 29-196](#)
- (d) When a violation of this chapter is determined to exist, the city official shall issue written notice of violation to the responsible party. The notice shall specify those sections of this chapter which are determined to be violated and shall include the time and conditions under which the violation(s) shall be corrected. If it is determined that the restoration is not feasible due to imminent construction, (1) a citation may be issued and fines may be levied; (2) the site shall be graded to obtain positive drainage; and (3) the site shall be stabilized with vegetation and the addition of erosion controls. If the responsible party has been issued either a notice of violation or stop work order within the previous twelve-month period, the notice may require the violation(s) to be corrected within twenty-four (24) hours.
- (e) The responsible party shall have a maximum of ten (10) calendar days from the date of the written notice to appeal the finding of the violation(s) to the planning commission as provided in [section 29-172](#)
- (f) If the responsible party fails to comply with the written notice of violation the city official may issue a stop-work order and citation, as provided in [section 29-10](#) and revoke all permits including the grading permit, building permit, and certificate of occupancy. Additionally, when the city official determines that trees to be protected are in the process of being removed or damaged or other emergencies exist, a stop work order to immediately cease and desist may be issued.
- (g) The permit applicant shall have on the project site at all times an agent who is a competent superintendent capable of reading and thoroughly understanding the plans, specifications and

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requirements for areas of tree protection for the type of work being performed. The superintendent shall have full authority to issue orders or direction to employees working on site, without delay and to promptly supply such materials, labor, equipment, tools, and incidentals as may be required to complete the work in a proper manner. If no superintendent is on site, the city official may issue the notice of violation and stop work order to the person conducting the violation.

- (h) Removal of trees with a diameter of six (6) inches or greater measured four and one-half (4.5) feet above the ground that have been removed without a grading permit or trees required in an approved plan that have been removed or which die shall be considered a violation.
- (i) If a land alteration activity causes damage to off-site property or water, the responsible party shall be required to mitigate the damage and install such additional erosion controls, as approved by the city official, to prevent further damage.
- (j) Damage to private or public property due to hauling operations or operation of construction related equipment from a nearby construction site shall be repaired by the responsible party prior to issuance of a certificate of occupancy.

(Ord. No. 19,353, § 2, 7-19-05)

Sec. 29-171. - Conflicts.

Where provisions of this chapter conflict with any other ordinance, regulation, or resolution of the city, the most stringent provision shall be enforced. The provisions of this chapter are considered minimum requirements.

(Ord. No. 19,353, § 2, 7-19-05)

Sec. 29-172. - Hearing before planning commission.

Appeals of a notice of violation as provided for in subsection [29-170\(e\)](#), a grading and drainage plan decision, or a restoration plan requirement as provided in [section 29-196](#) shall be heard by the planning commission provided an appeal is filed by the applicant within ten (10) calendar days after the date of the notice of violation, fee(s) are paid, and proper public notice is given. Any hearing before the planning commission regarding such appeal will be conducted in the following manner:

- (a) The appellant shall submit an application and fee as provided in [section 29-193](#) to the director of public works within the time limits provided for in subsection [29-170\(e\)](#). The appellant shall provide (1) a cover letter that clearly sets forth the provisions of the article that are being appealed and (2) a copy of all pertinent graphic materials or correspondence. Appealable issues are as follows:
 - 1. For a notice of violation, appealable issues are the determination that a violation has occurred, the time frame for correcting the violation, and the corrective action to be required.
 - 2. For a grading and drainage plan decision, appealable issues are the denial of a grading permit and the terms of a grading permit.
 - 3. For a restoration plan, appealable issues are any requirements of [section 29-196](#)
- (b) Certified-mail notice of all appeals shall be given by the applicant to adjacent property owners, including those across a street or alley from the subject property, at least ten (10) days prior to the planning commission meeting at which the appeal is to be considered. At least three (3) business days prior to the hearing, the appellant shall provide proof of notice to the director of

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public works. Failure to provide the required notice will cause the appeal to the planning commission to be dismissed, although minor irregularities in the giving of notice may be waived by the commission.

- (c) At the conclusion of questioning and statements, the chairman will call the appeal to a vote as follows:
1. For an appeal of the finding of a violation, either to affirm or overturn the finding of violation; upon affirmation of a finding of violation, a citation may be issued to the appellant;
 2. For an appeal of the time to correct the violation, either to affirm the time or determine a new time;
 3. For an appeal of the corrective action, either to affirm, determine a new corrective action, or decide that a corrective action is not feasible. A finding that a corrective action is not feasible or appellant's refusal to comply with the commission's decision may result in a citation being issued to the appellant.
 4. For an appeal of a grading and drainage plan decision, either affirm or overturn the decision to deny a grading permit, either affirm the permit term or establish a new permit term.
 5. For an appeal of a restoration plan or plan provision, either to affirm, determine a new provision or provisions, or decide that restoration is not feasible. A citation may be issued after finding that restoration is not feasible or upon appellant's refusal to fully comply with the restoration measures required by the planning commission.
- (d) Decisions by the commission shall be final and are not appealable to the city board of directors.

(Ord. No. 19,353, § 2, 7-19-05)

Secs. 29-173—29-185. - Reserved.